

Testimony by Jennifer Windsor
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I would like to thank the Subcommittee for the opportunity to provide testimony on this important issue.

The current situation related to the United Nations Human Rights Council presents a quandary for all of us who care about human rights and fundamental freedoms and the important and unique role to be played by the United Nations in protecting and advancing those rights and freedoms. While there has been some important progress and reform in a number of areas, there have also been some real disappointments, including in the text of General Assembly Resolution 60/251,¹ in the election of certain states to the Council, and in some of the actions the Council has taken since June. This mixed record to date forces a strategic decision: do we all distance ourselves until we are certain what the future will bring for the Council, or engage more actively in the hopes of doing what we can to encourage Members of the Council to take steps to reinforce its effectiveness?

While we continue to have serious concerns, Freedom House believes that the potential for the Council's success is not yet lost. We believe that the U.S. government and other democratic countries should make every effort to strengthen, not weaken, their engagement with the Council and to work together more effectively to ensure that the United Nations regains its leadership in protecting and advancing human rights and freedom.

Perhaps the most significant aspect of the new Council is the fact that for the first time in many years, a preponderance of states professing a commitment to democracy--and ranked by Freedom House as "Free" in its annual survey of freedom -- make up the Council's membership. Over 75 percent of the Council's Members belong to the Community of Democracies. In addition, the elections process to the Council was more transparent and competitive than past Commission processes and a number of Members made pledges to abide by and protect human rights. In its June inaugural session, the Council took important steps, including the establishment of two working groups to develop the modalities and procedures of the Universal Periodic Review and to review mandates and mechanisms of the Special Procedures. The Council's current approach for ensuring active participation by non-governmental organizations in its proceedings should be noted and reinforced.

The constraints and challenges are also obvious. The lack of more specific criteria for membership resulted in almost a dozen countries ranked as Not Free as Members of the

¹ See Freedom House press release, May 25, 2006, attached, and available at www.freedomhouse.org.

Council.² Three of those countries—Cuba, Saudi Arabia and China—are included in the latest ranking of Freedom House’s most repressive regimes, *The Worst of the Worst*, which is being released today. We are concerned that, despite the human rights crises that exist in places like North Korea, Darfur, Uzbekistan, and elsewhere, the Council has only chosen to exercise its authority for country specific action in two special sessions focusing on situations in Gaza and Lebanon, and then to pass resolutions widely seen in the human rights community as unbalanced condemnations of Israel without reference to human rights violations by Hamas or Hizbollah or the states that support them.

Moving Forward

The Council now needs to prove that it can and will act in a constructive manner in furtherance of its mandate.

The effectiveness of the Council will be judged most importantly on its willingness and ability to take action to address country and situation-specific human rights violations. The adoption of country-specific resolutions must remain part of the tools to respond to such violations. In the upcoming session in September, the Council should focus on those situations in the world where the most serious human rights violations now occur. Freedom House has released today our annual compilation of *The Worst of the Worst*, which identifies the most repressive countries in the world according to our findings in *Freedom in the World*, our annual survey of the political rights and civil liberties around the world. We believe that these situations represent the minimal "to do" list for priority Council action. These include:

- **North Korea**, where hundreds of thousands of citizens are held in political gulags, while others face torture and arbitrary execution.

² Freedom House would have liked to have seen more specific criteria for membership in the establishing resolution which currently calls for Members elected to the Council to “uphold the highest standards in the promotion and protection of human rights.” We hope that a future election process would be based on a credible universal periodic review of all new candidates which would examine a country’s performance against specified criteria and publish the results prior to the next electoral process. Such criteria should include:

- A government consistently demonstrating its respect for fundamental freedoms of its own citizens, which would include freedom from torture, due process, freedoms of association, information, religion, and right choose its own leaders.
- Cooperation with UN human rights bodies, including whether a government has denied entry to special rapporteurs or independent experts, and whether it has taken constructive and significant steps to remedy violations noted in past or current resolutions.
- An analysis of follow-through on specific pledges and democracy made during the May elections.
- A country’s voting record been on human rights issues in the General Assembly and, where applicable, as a member of the Council. An analysis of voting records on the top ten or fifteen human rights issues, as undertaken by Democracy Coalition Project, could be seen as a credible indicator of their interest in promoting human rights.

- **Burma**, where the military junta continues to carry out extrajudicial executions, to detain freely elected leaders, and to carry out forced relocation of ethnic minorities.
- The **Darfur** region of western Sudan, home to a humanitarian tragedy of major proportions, with over 400,000 deaths and millions of displaced people.

These countries are among the 8 countries (which also include Cuba, Libya, Syria, Turkmenistan, Uzbekistan, and the territories of Tibet and Chechnya) that receive the lowest possible scores in both of our political rights and civil liberties rankings. In addition, the *Worst of the Worst* details situations in Belarus, China, Equatorial Guinea, Eritrea, Haiti, Laos and Zimbabwe, all of which receive the lowest rating on either political rights or civil liberties and should be also be on the priority list for Council action.

UN General Assembly Resolution 60/251 also calls for Members of the Council to be removed by a two-thirds vote when “gross and systematic violations of human rights” occur. We believe that the situation in a number of Member states, including China, Cuba and Saudi Arabia, meet that standard. Currently, however, there are no procedures in place for removal of a Member and this should be a priority for Council action, and indeed for U.S. government leadership on this issue. This is not to say that taking action on this provision will ever be easy, similar provisions in current UN human rights treaties have not been utilized to date.

Finally, we believe that the Council needs to address a worrying global trend that directly impacts the human rights situation in many countries. As documented by the UN Special Rapporteur on Human Rights Defenders, the International Center for Not-for-Profit Law, the National Endowment for Democracy and many others, a growing number of governments in recent years are enacting legislation and regulations designed to restrict freedom of association, freedom of assembly, access to information and freedom of expression, particularly as they relate to democracy advocates and human rights defenders. In addition, many states are using extralegal measures such as harassment, intimidation and restrictions on outside funding to curb the work of nongovernmental organizations, while non-state actors are increasingly resorting to attacks on persons committed to protecting and defending fundamental freedoms. These activities contradict the Warsaw Declaration of the Community of Democracies, in addition to violating Article 20 of the Universal Declaration of Human Rights, Article 22 of the International Covenant on Civil and Political Rights and the UN Declaration on Human Rights Defenders.

The Responsibility of Democratic Governments

As was noted previously, the reformed election process for the new Human Rights Council led to Community of Democracies (CD) members representing over three-quarters of the Council Membership. The current participants of the Community of Democracies do contain some aberrations – most notably Venezuela and Russia - but this

grouping represents a unique gathering of democratic member states. Leading CD members have in turn formed a UN Democracy Caucus specifically designed to work across regional lines with a common objective of strengthening the ability of the United Nations to protect and advance democracy and human rights. Freedom House has been part of a coalition, along with the Democracy Coalition Project and the Transnational Radical Party of Italy and many others, to carry out an international campaign to create and catalyze Caucus action.

To date, the Caucus has yet to adequately act on opportunities to advance human rights at the UN, as one can see from the Democracy Coalition Project's analysis of voting records of democratic countries on country specific resolutions, as well as the outcome of the Council elections themselves.

For example, in the 2005 General Assembly meeting, Mali, the current chair and leader of the UN Democracy Caucus, along with other Caucus members, abstained from voting in favor of any of the country-specific resolutions, including those directed at some of the worst abusers mentioned above: North Korea, Uzbekistan and Turkmenistan and voted to take no action with regard to Sudan.³

With regard to the Council elections in May, the UN Democracy Caucus had pledged to give "serious consideration to countries contributing effectively to the promotion and protection of democracy and human rights worldwide in bodies which focus on elements of democratic governance" and to favor candidates that have "demonstrated a genuine commitment to human rights, both in practice and in their pledges." While balloting in the last elections was secret and actual country votes are not known, the total vote counts for countries like China, Cuba, and Saudi Arabia indicate that many Caucus members did not take their pledges seriously.

We hope that in the upcoming session this month, the Caucus demonstrates that it is willing to work in a consistent and unified manner to ensure the Council seriously addresses human rights violations in an even-handed and proactive fashion.

The United States: Need for More Effective Engagement

While most of the focus of my testimony has been on the Council and its current Members, I want to use the remaining portion of my time to address the role of the United States government, which unfortunately is not a Member, having decided not to present itself as a candidate for Council membership. We believe this has severely limited the impact and influence of the U.S. government diplomatic efforts.

I want to start by saying I have the highest respect for the two Administration officials that testified here today – they are both enormously talented and are actively working within the Administration to do what they can to facilitate U.S. government engagement with the Council.

³ For more information, see the analysis of UN Voting Patterns at the 2005 General Assembly and Scorecard prepared by the Democracy Coalition project at www.demcoalition.org.

While the Administration may claim that it has been working diligently behind the scenes with our allies on human rights issues related to the Council, it has clearly missed important opportunities. It is not worth rehashing errors in U.S. strategy and tactics during Council negotiations, as they have already been well documented. But since the Council's establishment, the U.S. continues to demonstrate that engagement is not a high priority for this Administration. The U.S. was one of the only countries in the world that did not send a foreign minister or deputy foreign minister to speak at the Council's opening high-level session. The U.S. was weeks behind other countries in submitting a written statement on the important Universal Peer Review process that is being put in place in Geneva – a process which will be critical for any future Council elections. And despite the recommendation of Freedom House and many other human rights NGOs, the Administration declined to create a high-level special envoy for the Council, who could work outside – but reinforce – the able efforts of Warren Tichenor, the U.S. Ambassador to the UN in Geneva -- and have the status and explicit authority to deal directly with foreign ministries in state capitals.

We all recognize that the U.S. government has a serious international image problem. If the U.S. is to be persuasive and effective with the Council, the Administration needs to communicate clearly that the Council is a priority, and design and implement a worldwide strategy, not just work through New York or Geneva representatives. This is not time for business as usual – there is too much at stake. The U.S. has some of the most talented diplomats in the world, and is the world's only remaining superpower, why are we continuing to fail to persuasively engage the international community in promoting human rights and fundamental freedoms?

Finally, as today's hearing reinforces, the U.S. Congress also has an important role to play in bringing world attention to critical human rights issues and helping to advance the objective of an effective Human Rights Council. That role should not include conditioning funding to the United Nations on the Council's performance. Rather, our energies should be devoted to encouraging a more effective—not necessarily a more bellicose—diplomacy from the United States government, and to raise directly with other democratically elected governments – many of whom request meetings with Members of Congress --the importance of their ensuring the Council take effective action against country specific human rights violations.

Freedom House Role

For its part, Freedom House will continue to engage in the work of the Council, particularly in facilitating access of human rights defenders and democracy activists to that body, in order to directly provide information on situations where infringements and violations of internationally recognized freedoms are occurring. For instance, we will be present in Geneva during the forthcoming session of the Council and will hold a parallel event on attacks against freedom of association.

It is important to remember that the Council was created to replace the Commission on Human Rights because the UN Secretary General and many others recognized the previous body's inability to address the most fundamental human rights issues confronting the world. The success of the new Human Rights Council is critical not only for the advancement and protection of human rights, but for the overall credibility and effectiveness of the UN as a body.

We appreciate the opportunity to testify here today, and we will continue to work with others to raise issues and concerns directly with the U.S. government, and with democratically elected Members of the Council to ensure that the Council's actions restore – and indeed strengthen -- the role of the United Nations in protecting human rights around the world.